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Section 5.56.010 Definitions.

For the purpose of this chapter, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

"CATV" means a community antenna television system as defined in Subdivision (H) of this section.

"City" means the City of Riverside, California, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

"Community antenna television system" means a system of antenna, coaxial cables, wires, wave guides, microwave links, signal repeaters or other conductors, equipment or facilities designed, constructed or used for the purpose of providing television or FM radio service by cable or through its facilities as herein contemplated. CATV shall not mean or include the transmission of any special program or event for which a separate and distinct charge is made to the subscriber in the manner commonly known and referred to as "pay television."

"Council" means the present governing body of the City or any future board constituting the legislative body of the City.

"Franchise" means and includes any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a CATV

system in the City. Any such authorization, in whatever term granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the City in accordance with Chapter 5.04 entitled "Licenses" of the Riverside Municipal Code, relating to the business license tax of the City of Riverside.

"Franchise area" means the territory within the City throughout which grantee shall be authorized to construct, maintain and operate its system and shall include any enlargements thereof and additions thereto.

"Grantee" means the person, firm or corporation to whom or which a franchise, as defined in this section, is granted by the Council under this chapter, or by the State Public Utilities Commission, and the lawful successor, transferee or assignee of said person, firm or corporation.

"Gross annual receipts" means any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a grantee from subscribers or users in payment for television or FM radio signals or service received within the City, and any fees or income received by grantee for carrying advertising or commercial messages over the CATV facilities. Included in "gross annual receipts" shall be installation and line extension charges levied by the grantee to subscribers. "Gross annual receipts" shall not include any taxes or services furnished by the grantee imposed directly on any subscriber or user by any city, state or other governmental unit and collected by the grantee for such governmental unit.

"Property of grantee" means all property owned, installed or used by a grantee in the conduct of a CATV business in the City under the authority of a franchise granted pursuant to this chapter.

"Street" means the surface of and the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, drive or way, now or hereafter existing as such within the City.

"Subscriber" means any person or entity receiving for any purpose the CATV service of a grantee. (Ord. 6941 § 3, 2007; Ord. 3624 § 2, 1969)

Section 5.56.020 Exclusive use of telephone facilities.

When and in the event that the grantee of any franchise granted hereunder constructs, operates and maintains a CATV system exclusively through telephone company facilities constructed, operated and maintained pursuant to a State-granted telephone franchise and offers satisfactory proof that in no event during the life of such franchise shall the grantee make any use of the streets independently of such telephone company facilities, said grantee shall be required to comply with all of the provisions hereof as a "licensee" and in such event whenever the term "grantee" is used in this chapter it means and includes "licensee." (Ord. 3624 § 2, 1969)

Section 5.56.030 Franchise to operate.

A nonexclusive franchise to construct, operate and maintain a CATV system within all or any portion of the City may be granted by the Council to any person, firm or corporation, whether operating under an existing franchise or not, who or which offers to furnish and provide such system under and pursuant to the terms and provisions of this chapter.

No provision of this chapter may be deemed or construed as to require the granting of a franchise when in the opinion of the Council it is in the public interest to restrict the number of grantees to one or more. (Ord. 3624 § 3, 1969)

Section 5.56.040 Uses permitted by grantee.

Any franchise granted pursuant to the provisions of this chapter shall authorize and

permit the grantee to engage in the business of operating and providing a CATV system in the City, and for that purpose to install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street, such wires, cables, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system. No new poles may be installed except where unusual circumstances exist and where express written permission is provided by the Public Works Director.

No franchise granted hereunder shall be construed a franchise, permit or license to transmit any special program or event for which a separate and distinct charge is made to the subscriber in the manner commonly known and referred to as "pay television," and no grantee shall directly or indirectly install, maintain or operate on any television set a coin box or any other device or means for collection of money for individual programs.

The grantee may make a charge to subscribers for installation or connection to its CATV system and a fixed monthly charge as filed and approved as provided in this chapter. No increase in the rates and charges to subscribers, as set forth in the schedule filed and approved with grantee's application, may be made without the prior approval of the Council expressed by resolution. (Ord. 3624 § 4, 1969)

Section 5.56.050 Duration.

No franchise granted by the Council under this chapter shall be for a term longer than fifteen years following the date of acceptance of such franchise by the grantee or the renewal thereof.

Any such franchise granted hereunder may be terminated prior to its date of expiration by the Council in the event that the Council shall have found, at a public hearing, after thirty days' notice of any proposed termination that:

A. The grantee has failed to comply with any provision of this chapter, or has, by act or omission, violated any term or condition of any franchise or permit issued hereunder; or

B. Any provision of this chapter has become invalid or unenforceable and the Council further finds that such provision constitutes a consideration material to the grant of said franchise; or

C. The City acquires the CATV system property of the grantee. (Ord. 3624 § 5, 1969)

Section 5.56.060 Payments.

A. Acceptance Fee. The grantee of any franchise granted pursuant to this chapter shall pay to the City upon acceptance of such franchise, a fee certain of two thousand five hundred dollars.

B. Annual Franchise Fee. The grantee of any franchise shall pay annually to the City during the life of the franchise a sum equal to five percent of the gross annual receipts of the grantee derived from subscriptions and users within the City, and in addition thereto such other sums as may be provided for in grantee's franchise. Such payments will be made to the finance director.

C. Annual PEG Facilities Support Fee. The Grantee of any franchise shall pay annually to the City during the life of the franchise a sum equal to one percent of the gross annual receipts of the Grantee derived from subscriptions and users within the City for the purpose of supporting PEG channel facilities.

The grantee shall file with the City, within thirty days after the expiration of any fiscal year or portion thereof during which such franchise is in force, a financial statement prepared by a certified public accountant, showing in detail the gross annual receipts, as defined in Section 5.56.010, of grantee during the preceding fiscal year or portion thereof. It shall be the duty of the grantee to pay to the City, within ten days after the time for filing such statements,

the sum hereinabove prescribed or any unpaid balance thereof for the calendar year or portion thereof covered by such statements.

In the event that the above payment is not received by the City within the specified time, grantee shall pay to the City liquidated damages of two percent per month on the unpaid balance in addition thereto. In any year during which payments under this section amount to less than one thousand eight hundred dollars per year, the grantee shall pay the City as a minimum an amount equal to one thousand eight hundred dollars per year. For any portions of a year, such minimum shall be prorated at the rate of one hundred fifty dollars monthly.

The City shall have the right to inspect the grantee's records showing the gross receipts from which its franchise payments are computed and the right of audit and recomputation of any and all amounts paid under this chapter. No acceptance of any payments shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this chapter or for the performance of any other obligation hereunder.

In the event of any holding over after expiration or other termination of any franchise granted hereunder, without the consent of the City, the grantee shall pay to the City a reasonable compensation and damages, of not less than one hundred percent of its total gross profits during said period. (Ord. 6941 § 4, 2007; Ord. 3655 § 1, 1969; Ord. 3624 § 6, 1969)

Section 5.56.070 Nonexclusive.

Any franchise granted under this chapter shall be nonexclusive. (Ord. 3624 § 7A, 1969)

Section 5.56.080 Privilege or exemption restricted.

No privilege or exemption shall be granted or conferred by any franchise granted under this chapter except those specifically prescribed in this chapter. (Ord. 3624 § 7B, 1969)

Section 5.56.090 Public property privilege.

Any privilege claimed under any such franchise by the grantee in any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property. (Ord. 3624 § 7C, 1969)

Section 5.56.100 Structure, line and equipment location.

All transmission and distribution structures, lines and equipment of the grantee within the City shall be so located as to cause no interference with the proper use of streets, alleys and other public ways and places and to cause no interference with the rights of reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. (Ord. 3624 § 7D, 1969)

Section 5.56.110 Restoration of disturbed surfacing.

In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the Public Works Director of the City, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed in as good condition as before said work was commenced and shall maintain the restoration in an approved condition for the duration of the franchise. (Ord. 3624 § 7E, 1969)

Section 5.56.120 Shutting off or interrupting service.

Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments, alterations or installations, the grantee shall do so at such time as will cause the least amount of inconvenience to its customers and unless such interruption is

unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers. (Ord. 3624 § 7F, 1969)

Section 5.56.130 Transfer or assignment.

Any such franchise shall be a privilege to be held in personal trust by the original grantee. It cannot in any event be sold, transferred, leased, assigned or disposed of in whole or in part either by forced or involuntary sale, or by voluntary sale, merger, consolidation, operation of law or otherwise without the prior consent of the Council, after a public hearing, expressed by resolution and then under such conditions as may therein be prescribed. Any such transfer or assignment shall be made only by an instrument in writing, a duly executed copy of which shall be filed in the office of the City Clerk within ten days after any such transfer or assignment. Said consent of the Council may not be arbitrarily refused; provided, however, the proposed assignee will show financial responsibility and must agree to comply with all provisions of this chapter; and provided, further, that no such consent shall be required for a transfer in trust, mortgage, or other hypothecation as whole to secure an indebtedness. (Ord. 3624 § 7G, 1969)

Section 5.56.140 Chapter compliance.

Time shall be of the essence of any such franchise granted hereunder. The grantee shall not be relieved of his obligation to comply promptly with any of the provisions of this chapter or by any failure of the City to enforce prompt compliance. (Ord. 3624 § 7H, 1969)

Section 5.56.150 Transfer of City right or power.

Any right or power in, or duly impressed upon, any officer, employee, department or board of the City shall be subject to transfer by the City to any other officer, employee, department or board of the City. (Ord. 3624 § 7I, 1969)

Section 5.56.160 Nonliability of City.

The grantee shall have no recourse whatsoever against the City for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or of any franchise issued hereunder or because of its enforcement. (Ord. 3624 § 7J, 1969)

Section 5.56.170 Application of regulations.

The grantee shall be subject to all requirements of City ordinances, rules, regulations and specifications heretofore or hereafter enacted or established including but not limited to those concerning the undergrounding of utilities, street work, street excavation, use, removal and relocation of property within a street and other street work. (Ord. 3624 § 7K, 1969)

Section 5.56.180 Obtaining pole space.

Any such franchise granted shall not relieve the grantee of any obligation involved in obtaining pole space for any department of the City, utility company, or from others maintaining poles in streets. (Ord. 3624 § 7L, 1969)

Section 5.56.190 Abandonment of City authority.

Any franchise granted hereunder shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by grantee, or any successor to any interest of grantee, of or pertaining to the construction, operation, or maintenance of any CATV system in the City; and the acceptance of any franchise hereunder shall operate as between grantee and the City, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the City, to the effect that, as between

grantee and the City, any and all construction, operation and maintenance by any grantee of any CATV system in the City shall be, and shall be deemed and construed in all instances and respects to be, under and pursuant to said franchise, and not under or pursuant to any other right, privilege, power, immunity, or authority whatsoever. (Ord. 3624 § 7M, 1969)

Section 5.56.200 Compliance with City, State and federal regulations.

The grantee shall at all times during the life of this franchise comply with all provisions of existing and future rules and regulations of the City, the State, and the United States of America. (Ord. 3624 § 7N, 1969)

Section 5.56.205 Compliance with State and Federal Customer Service Standards; Penalties.

The Grantee shall at all time during the life of any franchise comply with any and all provisions of existing and future state and federal customer service standards. The City Manager has the authority to establish a penalty schedule to be used as a guideline in determining the amount of penalties for any violations of such standards. The maximum amount of monetary penalties that may be imposed shall not exceed the following: for the first material breach of a standard, \$500 for each day of violation, not to exceed \$1,500; for the second breach of the same standard within 12 months, \$1,000 for each day of violation, not to exceed \$3,000; for the third breach of the same standard, \$2,500 for each day of violation, not to exceed \$7,500. (Ord. 6941 § 1, 2, 2007)

Section 5.56.210 Removal of fixtures if City alters grade of public way.

If at any time during the period of this franchise, the City lawfully elects to alter or change the grade of any street, sidewalk, alley or other public way, the grantee, upon reasonable notice by the City, shall remove, relay, and relocate his wires, cables, underground conduits, manholes and other fixtures at its own expense. (Ord. 3624 § 7O, 1969)

Section 5.56.220 Placement of fixture on public way.

Any fixtures placed in any public way by the grantee, shall be placed in such a manner as not to interfere with the usual travel on such public way. (Ord. 3624 § 7P, 1969)

Section 5.56.230 Altering wires for building moving.

The grantee shall on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than forty-eight hours advance notice to arrange for such temporary wire changes. (Ord. 3624 § 7Q, 1969)

Section 5.56.240 Tree trimming.

The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the grantee. (Ord. 3624 § 7R, 1969)

Section 5.56.250 Underground facilities.

In all sections of the City where the cables, wires, or other like facilities of one or more public utilities engaged in providing electric or telephone service are placed underground, the grantee shall place its cables, wires, or other like facilities underground, unless microwave links or wireless transmission is utilized, in which case prior approval shall be obtained by the Public Works Director of the City. (Ord. 3624 § 7S, 1969)

Section 5.56.260 Rights reserved to City.

A. Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the grantee, either by purchase or through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted, and nothing herein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain.

B. There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any ordinance of the City, and the grantee, by its acceptance of any franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established.

C. Neither the granting of any franchise hereunder nor any of the provisions contained herein shall be construed to prevent the City from granting any identical, or similar, franchise to any other person, firm or corporation, within all or any portion of the City.

D. There is hereby reserved to the City the power to amend any section or part of this chapter so as to require additional or greater standards of construction, operation, maintenance or otherwise, on the part of the grantee.

E. Neither the granting of any franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

F. The Council may do all things which are necessary and convenient in the exercise of its jurisdiction under this chapter and may determine any question of fact which may arise during the existence of any franchise granted hereunder. The City Manager is authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of any grantee under this chapter, either on behalf of the City, the grantee, or any subscriber, in the best interest of the public. Either the grantee or any member of the public who may be dissatisfied with the decision of the City Manager may appeal the matter to the Council for hearing and determination. The Council may accept, reject or modify the decision of the City Manager, and the Council may adjust, settle, or compromise any controversy or cancel any charge arising from the operations of any grantee or from any provision of this chapter. (Ord. 3624 § 8, 1969)

Section 5.56.270 Permits, installation and service.

A. Within thirty days after acceptance of any franchise the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, microwave carrier licenses, and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems, or their associated microwave transmission facilities.

B. Within ninety days after obtaining all necessary permits, licenses and authorizations, grantee shall commence construction and installation of the CATV system.

C. Within ninety days after the commencement of construction and installation of the system, grantee shall proceed to render service to subscribers, and the completion of the construction and installation shall be pursued with reasonable diligence thereafter, so that

service to all areas designated on the map accompanying the application for franchise, as provided in Sections 5.56.580 through 5.56.610, shall be provided to all grantee's licensed subscribers within such time and upon such conditions as shall be determined by the City Council.

D. Failure to do any of the foregoing shall be grounds for a termination of the franchise.

E. The City Manager may extend the time for obtaining necessary permits and authorizations and for beginning construction and installation for additional periods in the event the grantee acting in good faith experiences delays by reason of circumstances beyond his control. (Ord. 3624 § 9, 1969)

Section 5.56.280 Location of property of grantee.

A. Any wires, cable lines, conduits or other properties of the grantee to be constructed or installed in streets, shall be so constructed or installed only at such locations and in such manner as shall be approved by the Public Works Director acting in the exercise of his reasonable discretion.

B. The grantee shall not install any facilities or apparatus in or on other public property, places or rights-of-way, or within any privately-owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the City, except those installed upon public utility facilities now existing, without obtaining the prior written approval of the Public Works Director.

C. In those areas and portions of the City where the transmission and/or distribution facilities of one or more public utilities engaged in providing electric or telephone service are underground or hereafter may be placed underground, then the grantee shall likewise construct, operate and maintain all of its transmission and distribution facilities underground. (Ord. 3624 § 10, 1969)

Section 5.56.290 Removal and abandonment of property of grantee.

A. In the event that the use of any part of the CATV system is discontinued for any reason for a continuous period of three months, or in the event such system or property has been installed in any street or public place without complying with the requirements of grantee's franchise or this chapter, or the franchise has been terminated, cancelled or has expired, the grantee shall promptly, upon being given thirty days' notice remove from the streets or public places all such property of such system other than any which the Director of Public Works may permit to be abandoned in place. In the event of such removal, the grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the Director of Public Works.

B. Any property of the grantee remaining in place thirty days after the termination or expiration of the franchise shall be considered permanently abandoned. The City Manager may extend such time not to exceed an additional thirty days.

C. Any property of the grantee to be abandoned in place shall be abandoned in such manner as the Director of Public Works shall prescribe. Upon permanent abandonment of the property of the grantee in place, the property shall become that of the City, and the grantee shall submit to the City Council an instrument in writing, to be approved by the City Attorney, transferring to the City the ownership of such property. (Ord. 3624 § 11, 1969)

Section 5.56.300 Changes required by public improvements.

The grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the grantee when required by the Director of Public Works by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or

establishment of street grade, installation of sewers, drains, storm drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by public agencies; provided, however, that the grantee shall in all such cases have the privilege and be subject to the obligations to abandon any property of the grantee in place, as provided in Section 5.56.290. (Ord. 3624 § 12, 1969)

Section 5.56.310 Failure to perform street work.

Upon failure of the grantee to commence, pursue, or complete any work required by law or by the provisions of this chapter or by its franchise to be done in any street or other public place, within the time prescribed, and to the satisfaction of the Public Works Director, the City Manager may, at his option, cause such work to be done and the grantee shall pay to the City the cost thereof in the itemized amounts reported by the City Manager to the grantee within ten days after receipt of such itemized report. (Ord. 3624 § 13, 1969)

Section 5.56.320 Faithful performance bond.

A. The grantee shall, concurrently with the filing of and acceptance of award of any franchise granted under this chapter, file with the City Clerk, and at all times thereafter maintain in full force and effect for the term of such franchise or any renewal thereof, at grantee's sole expense, a corporate surety bond in a company and in a form approved by the City Attorney, in the amount of one hundred thousand dollars, renewable annually, and conditioned upon the faithful performance of grantee, and upon the further condition that in the event grantee fails to comply with any one or more of the provisions of this chapter, or of any franchise issued to the grantee hereunder, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the City as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed hereby which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond; said condition to be a continuing obligation for the duration of such franchise and any renewal thereof and thereafter until the grantee has liquidated all of its obligations with the City that may have arisen from the acceptance of said franchise or renewal by the grantee or from its exercise of any privilege therein granted. The bond shall provide that thirty days' prior written notice of intention not to renew, cancellation, or material change, be given to the City.

B. Neither the provisions of this section, nor any bond accepted by the City pursuant hereto, nor any damages recovered by the City thereunder, shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under any franchise issued hereunder or for damages, either to the full amount of the bond or otherwise. (Ord. 3624 § 14, 1969)

Section 5.56.330 Indemnification of City.

A. The grantee shall indemnify and hold harmless the City, its officers, boards, commissions, agents and employees against and from any and all claims, demands, actions, suits, liabilities, and judgments of every kind and nature and regardless of the merit of the same, arising out of or related to the exercise or enjoyment of any CATV franchise granted pursuant to the provisions of this chapter, including claims, demands, actions, suits, liabilities and judgments based upon any infringement or violation or alleged violation of any copyright; and the grantee shall reimburse the City for any costs and expenses incurred by City in defending against any such claim or demand or action, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, travel and living expense; and the grantee shall upon demand of the City appear in and defend any and all suits, actions or other legal proceedings whether judicial, quasijudicial, administrative or otherwise, brought by third persons

or duly constituted authorities against or affecting the City, its officers, boards, commissions, agents or employees and arising out of or related to the exercise or enjoyment of such franchise, or the granting thereof by the City. The foregoing obligation shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other security required hereunder; provided that neither the grantee nor the City shall make or enter into any compromise or settlement of any claim, demand, action or suit without first giving the other ten days' prior written notice of its intentions to do so.

B. The grantee shall, concurrently with the filing of an acceptance of award of any franchise granted under this chapter, furnish to the City and file with the City clerk, and at all times during the existence of any franchise granted hereunder, maintain in full force and effect, at its own cost and expense, a general comprehensive liability insurance policy, in protection of the City, its officers, boards, commissions, agents and employees, in a company approved by and in a form acceptable to the City Attorney, protecting the City and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of the grantee under such franchise, with minimum liability limits of two hundred fifty thousand dollars for personal injury or death of any one person, and five hundred thousand dollars for personal injury or death of two or more persons in any one occurrence and one hundred thousand dollars for damage to property resulting from any one occurrence.

C. The policy mentioned in subsection B shall be primary insurance, shall name the City, its officers, boards, commissions, agents and employees, as additional insured and shall contain a provision that a written notice of cancellation, reduction, or other material change in coverage of said policy shall be delivered to the City Clerk thirty days in advance of the effective date thereof. If said insurance is provided by a policy which also covers grantee or any other entity or person other than those above mentioned, then such policy shall contain the standard cross-liability endorsement. (Ord. 3624 § 15, 1969)

Section 5.56.340 Inspection of property and records.

A. At all reasonable times, the grantee shall permit any duly authorized representative of the City to examine all property of the grantee, together with any appurtenant property of the grantee situated within or without the City, and to examine and transcribe any and all maps and other records kept or maintained by the grantee or under its control which deal with the operations, affairs, transactions or property of the grantee with respect to its franchise. If any such maps or records are not kept in the City, or upon reasonable request made available in the City, and if the City Manager determines that an examination thereof is necessary or appropriate, then all travel and maintenance expense necessarily incurred in making such examination shall be paid by the grantee.

B. The grantee shall prepare and furnish to the City Manager and/or Finance Director at the times and in the form prescribed by either of said officers, such reports with respect to its operations, affairs, transactions or property, as may be reasonably necessary or appropriate to the performance of any of the rights, functions or duties of the City or any of its officers in connection with the franchise.

C. The grantee shall at all times make and keep in the City full and complete plans and records showing the exact location of all CATV system equipment installed or in use in streets and other public places in the City.

D. The grantee shall file with the Public Works Director, on or before the last day in March of each year, four copies of a current map or set of maps drawn to scale, showing all CATV system equipment installed and in place in streets and other public places of the City. (Ord. 3624 § 16, 1969)

Section 5.56.350 Operational standards.

The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In determining the satisfactory extent of such standards the following among others shall be considered:

A. That the system provide a minimum of twenty channels, capable of delivering to subscribers the entire VHF and FM spectrum and selected portions of the UHF spectrum;

B. That the system, as installed, be capable of passing standard color TV signals without the introduction of material degradation on color fidelity and intelligence;

C. That the system and all equipment be designed and rated for twenty-four-hour per day continuous operation;

D. That the system provides a nominal signal level of two thousand microvolts across seventy-five ohms at the input terminals of each TV receiver. A minimum signal of one thousand microvolts across seventy-five ohms shall be maintained for at least ninety-five percent of the operating time;

E. The system signal-to-noise ratio shall not be less than forty-three db. (decibels). Signal-to-noise is a figure of merit, thus insuring distribution of picture without noticeable degradation;

F. Hum modulation of a one hundred percent modulated picture signal shall not exceed two percent;

G. The system shall not exceed a VSWR (Voltage Standing Wave Ratio) of 1.2 at any point in the system;

H. The sound carrier level on each television channel distributed shall not be less than seventeen db. below the level of either adjacent picture carrier;

I. The carrier level of each FM channel distributed shall be not less than seventeen db. below the picture carrier level in television channels adjacent to the FM band;

J. Co-channel interference, adjacent channel interference and other extraneous signals, including hum, measured at the receiver input, shall be at least minus forty db. with respect to the peak carrier level of each desired channel;

K. Isolation between any two subscribers shall be at least thirty-five db;

L. Radiation from coaxial cables and electronic equipment in the distribution system including power supplies and associated power lines shall be less than ten microvolts per meter at any point at a distance of ten feet. Each power supply or its associated housing shall be equipped with a suitable RF power line filter which shall provide not less than thirty-six db. of attenuation to all frequency transmitted over this system;

M. Interference from sources external to the system shall not be noticeable with a blank-screen test;

N. All equipment must conform with any pertinent City and/or underwriter's laboratory standards whichever shall be more stringent;

O. The system shall maintain all of the above specifications between ambient temperature limits from minus twenty degrees Fahrenheit to plus one hundred twenty degrees Fahrenheit, where "ambient temperature" is defined as the officially recorded City air temperature, and also for AC power line variations between one hundred five and one hundred thirty volts, and between fifty-five and sixty-five Hz. The maximum level change at the input to any randomly selected receiver shall be three db. with a temperature change of fifty degrees Fahrenheit, with no adjustment and with the AC line voltage constant within five percent of nominal. The maximum level change shall be three db. for a constant ambient temperature with a voltage variation from one hundred five to one hundred thirty volts.

P. The signal received by the customer shall be substantially the same quality as originally transmitted by the station being received taking into consideration the technical conditions over which the system operator has no control. (Ord. 3624 § 17, 1969)

Section 5.56.360 Proof of performance specification.

The franchise grantee shall submit at the commencement of operation a proof of performance for each CATV system or major operating portion thereof that the system is operating in conformance with each of the standards and specifications listed above as of the date of the statement. The statement shall be submitted in a form approved by the City Manager. Thereafter, at least once annually the City shall employ the services of a consultant, expert in this field, who will determine that the system is operating in conformance with each of the standards and specifications listed above as of the date of the statement. This statement, too, shall be submitted in the form approved by the City Manager. Any such costs incurred by the City to determine proof of performance of the operational specifications shall be paid by the grantee within ten days of receipt of statement of costs sent by the City. More frequent proof of performance of the operational specifications may be required. (Ord. 3624 § 18, 1969)

Section 5.56.370 Filing.

When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Clerk. (Ord. 3624 § 19A, 1969)

Section 5.56.380 Approval of rate schedule.

The rate schedule for advertising and for any connection fee or monthly service charge or charge thereto to subscribers must have written approval of the City Council. (Ord. 3624 § 19B, 1969)

Section 5.56.390 Specification of charges in agreement.

Both the installation and monthly service charges for CATV service shall be specified in the agreement between the grantee and the subscriber. (Ord. 3624 § 19C, 1969)

Section 5.56.400 Reimbursement of City expense.

The grantee must pay to the City a sum of money sufficient to reimburse it for expenses incurred by it in publishing legal notice and ordinances in connection with the granting of the franchise pursuant to the provisions of this chapter; such payment to be made in ten days after the City shall furnish such grantee with a written statement of such expense. (Ord. 3624 § 19D, 1969)

Section 5.56.410 Toll free telephone number.

The grantee shall maintain a toll free telephone number, with twenty-four-hour-per-day answering or referral service, within the City so that CATV maintenance service shall be promptly available to subscribers, the cost of said maintenance service of grantee's system shall be borne by grantee. (Ord. 3624 § 19E, 1969)

Section 5.56.420 Maintenance service log.

The grantee shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date cleared. This log shall be made available for periodic inspection by the City. (Ord. 3624 § 19F, 1969)

Section 5.56.430 Performance correction responsibility.

The grantee shall bear the prime responsibility for appropriate corrective action whenever improper performance is detected in any part of the system, regardless of whether

public utility distribution facilities are utilized. (Ord. 3624 § 19G, 1969)

Section 5.56.440 Refusal of service.

No person, firm or corporation in the existing service area of the grantee shall be arbitrarily refused service; provided, however, that grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or the applicable monthly service charge. (Ord. 3624 § 19H, 1969)

Section 5.56.450 Service to City buildings.

The grantee shall without charge provide in the franchise area all subscriber services of its system to all public schools, City police and fire stations, City recreation centers and other such buildings owned or controlled by the City as the City Manager shall designate. Such service shall consist of a connection to the exterior of the building or property involved and a connection to the interior of the building or property to a television set if desired. (Ord. 3624 § 19I, 1969)

Section 5.56.460 Emergency service.

In the case of any emergency or disaster, the grantee shall upon request of the City Manager make available his facilities to the City for emergency use during the emergency or disaster. (Ord. 3624 § 19J, 1969)

Section 5.56.470 Business involving receivers restricted.

Neither the grantee hereunder nor any shareholder of the grantee shall engage in the business of selling, repairing or installing television receivers, radio receivers, or accessories for such receivers within the City during the term of this franchise, and the grantee shall not allow any of its shareholders to so engage in any such business. (Ord. 3624 § 19K, 1969)

Section 5.56.480 Not to replace other franchise, license or permit.

Any franchise granted pursuant to the provisions of this chapter authorizes only the operation of the CATV system as provided herein and does not take the place of any other franchise, license or permit which might be required by law of the grantee. (Ord. 3624 § 19L, 1969)

Section 5.56.490 Preventing failures and accidents.

The grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. (Ord. 3624 § 19M, 1969)

Section 5.56.500 Manner of installation and maintenance.

The grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of General Order No. 95 of the Public Utilities Commission of the State of California and in such manner that they will not interfere with any installation of the City or of a public utilities serving the City. (Ord. 3624 § 19N, 1969)

Section 5.56.510 Maintenance required.

All structures and all lines, equipment and connections in, over, under, and upon the streets, sidewalks, alleys and public ways or places of the City wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition and in good

order and repair. (Ord. 3624 § 19O, 1969)

Section 5.56.520 Employees.

The grantee shall maintain a force of one or more resident agents or employees at all times and shall have sufficient employees to provide safe, adequate and prompt service for its facilities. (Ord. 3624 § 19P, 1969)

Section 5.56.530 Correcting malfunctions.

The grantee shall limit failures to a minimum by locating and correcting malfunctions promptly, but in no event longer than twenty-four hours after notice. (Ord. 3624 § 19Q, 1969)

Section 5.56.540 Communications to regulatory agency.

Copies of all petitions, applications and communications submitted by the grantee to the Federal Communications Commission, Security and Exchange Commission, or any other federal, State or local regulatory commission or agency having jurisdiction in respect to any matters affecting CATV operations authorized, pursuant to this chapter, shall also be submitted simultaneously to the City Manager. (Ord. 3624 § 19R, 1969)

Section 5.56.550 Flow-through of refunds.

If, during the term of any franchise, the grantee receives refunds or any payment made for television or radio signals, it shall without delay notify the City Manager, suggest a plan for flow-through of the refunds to its subscribers and retain such refunds pending order of the City Council. After considering the plan submitted by the grantee, the City Council shall order the flow-through of the refunds to the grantee subscribers in a fair and equitable manner. (Ord. 3624 § 19S, 1969)

Section 5.56.560 Agreement for use of utility poles and facilities.

When any portion of the CATV system is to be installed on public utilities poles and facilities, certified copies of the agreements for such joint use of poles and facilities shall be filed with the City Clerk. (Ord. 3624 § 20, 1969)

Section 5.56.570 Adoption of rules and regulations by the City Council.

A. The City Council is authorized to adopt rules and regulations consistent with the provisions of this chapter governing the operation of CATV systems in the City and such rules and regulations shall apply to and shall govern the operations of the grantee of any franchise granted pursuant to the provisions of this chapter.

B. The City Council may adopt rules or regulations or amend, modify, delete, or otherwise change such rules and regulations previously adopted in the following manner:

1. The City Council shall pass a resolution of intention describing the rules or regulations to be adopted, amended, modified, deleted, or otherwise changed and set a day, hour and place for public hearing. Such resolution shall direct the City Clerk to publish the same at least once within fifteen days of passage thereof;

2. The City Clerk shall cause such resolution to be published at least once in one newspaper of general circulation in the City and shall cause a copy of same to be mailed or delivered to any grantee not less than ten days prior to the time fixed for hearing thereon;

3. At the time for public hearing, or at any adjournment thereof, the City Council shall proceed to hear and pass upon such evidence, comments and objections as may be presented. Thereafter, the City Council by its resolution may adopt, amend, modify, delete, or otherwise change said rules and regulations. (Ord. 3624 § 21, 1969)

Section 5.56.580 Application.

Application for a franchise hereunder shall be in writing, shall be filed with the City Clerk, in a form approved by the City Manager, and shall contain but not be limited to the following information:

1. The name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall also be set forth. If the applicant is a corporation, the application shall also state the names and addresses of its directors, main officers, major stockholders and associates, the names and addresses of parent and subsidiary companies and the state of incorporation;

2. A statement and description in detail of the CATV system proposed to be constructed, installed, maintained or operated by the applicant; the proposed location of such system and its various components; the manner and time in which applicant proposes to construct, install, maintain and operate the same; and, particularly, the extent and manner in which existing poles or other facilities of other public utilities will be used for such system;

3. A description, in detail, of the public streets, public places and proposed public streets within which applicant proposes or seeks authority to construct, install or maintain any CATV equipment or facilities; a detailed description of the equipment or facilities proposed to be constructed, installed or maintained therein; and the proposed specific location thereof;

4. A map specifically showing and delineating the proposed franchise area or areas within which applicant proposes to provide CATV services and for which a franchise is required;

5. A statement or schedule in a form approved by the City Manager of proposed rates and charges to subscribers for installation and services, and a copy of proposed service agreement between the grantee and its subscribers shall accompany the application. Where underground cable is required, or where more than one hundred fifty feet of distance from cable to connection of service to subscribers, an additional installation charge over that normally charged for installation as specified in the applicant's proposal may be charged, with easements to be supplied by subscribers. For remote, relatively inaccessible subscribers within the City, service may be made available on the basis of cost of materials, labor, and easements if required by the grantee;

6. A copy of any contract, if existing, between the applicant and any public utility providing for the use of facilities of such public utility, such as poles, lines, or conduits;

7. A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person, firm or corporation with respect to the proposed franchise or the proposed CATV operation. If a franchise is granted to a person, firm or corporation posing as a front or as the representative of another person, firm or corporation, and such information is not disclosed in the original application, such franchise shall be deemed void and of no force and effect whatsoever;

8. A financial statement prepared by a certified public accountant showing applicant's financial status and his financial ability to complete the construction and installation of the proposed CATV system;

9. A statement indicating where other CATV franchises are held and how many existing subscribers are serviced;

10. The Council may, at any time, demand, and applicant shall provide such supplementary, additional or other information as the Council may deem reasonably necessary to determine whether the requested franchise should be granted;

11. A statement of intent with regard to program origination and acceptance of local advertising shall be included;

12. The number and identification of channels proposed to be carried on the CATV system;

13. A detailed listing of operating equipment including model numbers and types, with an "equal or better" guarantee;

14. A paragraph-by-paragraph response to the operational standards of Section 5.56.350. No deviations or waivers from these standards are contemplated unless specifically requested;

15. A proposed subscriber complaint processing and equipment repair procedure;

16. A proposed "proof of performance" description listing tests to be performed and equipment utilized. (Ord. 3624 § 22A, 1969)

Section 5.56.590 Granting franchise.

Upon consideration of any such application, the City Council may grant a franchise for CATV to such applicant as may appear from said application to be in its opinion qualified to render proper and efficient CATV service to television viewers and subscribers in the City. If favorably considered, the application submitted shall constitute and form a part of the franchise as granted. (Ord. 3624 § 22B, 1969)

Section 5.56.600 Resolution of intention.

Prior to the granting of the franchise pursuant to this chapter, the Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once within fifteen days of the passage thereof in one newspaper of general circulation in the City. Said notice shall be published at least ten days prior to the date of hearing. At the time set for hearing, the Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant same, subject to the right of referendum of the people, or it may deny the same. If the Council determines that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon. (Ord. 3624 § 22C, 1969)

Section 5.56.610 Conditions.

Any franchise issued pursuant to this chapter shall include but not be limited to the following conditions:

1. The CATV system franchise herein shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the City and no other purpose whatsoever;

2. The inclusion of the foregoing statement and any such franchise shall not be deemed to limit the authority of the City to include any other reasonable condition, limitation, or restriction which it may deem necessary to impose in connection with such franchise pursuant to the authority conferred by this chapter. (Ord. 3624 § 22D, 1969)

Section 5.56.620 Application fee.

Each application shall be accompanied by an application fee in the sum of five hundred dollars which shall be used by the City to cover the costs of reviewing, investigating and processing such an application. This fee is not refundable. (Ord. 3624 § 23, 1969)

Section 5.56.630 Effect of annexations.

A. In the event any new territory becomes annexed to the City, the City Council shall determine which grantee or grantees shall serve such new territory.

B. In the event any portion of the unincorporated territory covered by an existing franchise or license granted by the County of Riverside is annexed to the City prior to the time that the grantee of such County franchise or license has commenced installation of a CATV system within said territory, all rights acquired by said grantee under its County franchise or license shall terminate by operation of law as of the date on which the annexation to the City becomes effective.

C. In the event any portion of unincorporated territory covered by an existing franchise or license granted by the County is annexed to the City after the grantee thereof has commenced or completed construction and installation of a CATV system within said territory, the rights reserved under such franchise or license to the County or to any officer thereof, shall inure to the benefit of the City and all regulatory provisions of this chapter and any other rules and regulations applicable to CATV systems operating within the City, whether then in effect or subsequently adopted, shall be applicable to and binding upon said grantee. In addition, the grantee shall be obligated to pay annually to the City, five percent of the gross receipts derived from its operations within the annexed territory or eighteen hundred dollars whichever sum is greater. (Ord. 3624 § 24, 1969)

Section 5.56.640 Franchise renewal.

Any franchise granted under this chapter is renewable at the application of the grantee, in the same manner and upon the same terms and conditions as required herein for obtaining the original franchise, except those which are by their terms expressly inapplicable; provided, however, that the Council may at its option waive compliance with any or all of the requirements of Section 5.56.570. (Ord. 3624 § 25, 1969)

Section 5.56.650 Acceptance and effective date of franchise.

A. No franchise granted pursuant to the provisions of this chapter shall become effective unless and until the ordinance granting same has become effective and, in addition, unless and until all things required in this section and Sections 5.56.320 and 5.56.330 are done and completed, all of such things being hereby declared to be conditions precedent to the effectiveness of any such franchise granted hereunder. In the event any of such things are not done and completed in the time and manner required, the Council may declare the franchise null and void.

B. Within fifteen days after the effective date of the ordinance awarding a franchise, or within such extended period of time as the City Council in its discretion may authorize, the grantee shall file with the City Clerk his written acceptance, in form satisfactory to the City Attorney, of the franchise, together with the acceptance fee, bond and insurance policies required by Sections 5.56.060, 5.56.320 and 5.56.330, respectively, and his agreement to be bound by and to comply with and to do all things required of him by the provisions of this chapter and the franchise. Such acceptance and agreement shall be acknowledged by the grantee before a notary public and shall in form and content be satisfactory to and approved by the City Attorney. (Ord. 3624 § 26, 1969)

Section 5.56.660 Franchise for signal distribution.

From and after August 21, 1969, it is unlawful for any person to establish, operate or to carry on the business of distributing to any persons in the City any television signals or radio signals by means of a CATV system unless a franchise therefor has first been obtained

pursuant to the provisions of this chapter, and unless such franchise is in full force and effect. (Ord. 3624 § 27A, 1969)

Section 5.56.670 Franchise authorizing use of street or area.

From and after August 21, 1969, it is unlawful for any person to construct, install or maintain within any public street in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect. (Ord. 3624 § 27B, 1969)

Section 5.56.680 Unauthorized connection to take or receive signals.

It is unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised CATV system within this City for the purpose of taking or receiving television signals, radio signals, pictures, programs, or sound. (Ord. 3624 § 27C, 1969)

Section 5.56.690 Unauthorized connection to receive signals without payment.

It is unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of said system. (Ord. 3624 § 27D, 1969)

Section 5.56.700 Tampering with equipment.

It is unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound. (Ord. 3624 § 27E, 1969)

Section 5.56.710 Effect of preemption.

In the event the Federal Communications Commission or the Public Utilities Commission of the State of California or any other federal or State body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of any franchise hereunder, then to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the City, the jurisdiction of the City shall to the extent so preempted or precluded, cease and no longer exist; provided, however, that the preemption or preclusion of the exercise by the City of any of its police power shall not diminish, impair, alter or affect any contractual benefit to the City nor any contractual obligation of the grantee under any franchise issued hereunder; and in this respect, any and all minimum standards governing the operation of grantee and any and all maximum rates, ratios and charges specified herein or in any franchise issued hereunder existing now and at any time in the future including such time as such paramount jurisdiction shall preempt or preclude that of the City in any and all powers, rights, privileges and authorities of the City to determine, establish or fix any of the same are each and all hereby declared by the City and by any grantee accepting any franchise hereunder, to be contractual in nature and to be for the benefit of the City and all subscribers situated therein, and the agreement of grantee to accept and conform to such standards, rates, ratios and charges is hereby declared by the City and by any grantee accepting the franchise hereunder to be the most material and

essential consideration for the granting of such franchise, the absence of which, in whole or in part, would cause the City not to have granted such franchise. (Ord. 3624 § 28, 1969)